

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

258V0301

HOUSE BILL NO. 1173

Introduced by: Representatives Wismer, Feickert, and Tyler and Senator Sutton

1 FOR AN ACT ENTITLED, An Act to provide authority to establish special purpose districts
2 for county roads.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. If any person requests to form, organize, establish, equip, and maintain a county
5 road improvement district, the petition sponsor shall present a petition to the county auditor of
6 each county in which the area is situated. A county road improvement district may be created
7 for the purpose of construction, maintenance, or management of county highways, bridges, and
8 roads. The board of county commissioners in each county where a district would be situated
9 may also initiate formation of a district by resolution.

10 Any municipality located within the area may be included in the county road improvement
11 district if at least twenty percent of the number of registered voters within the municipality
12 voting in the last gubernatorial election sign a separate petition from that municipality, or if the
13 governing body of the municipality establishes intent by passing a resolution so indicating.

14 Section 2. The petition shall contain the suggested name of the proposed district, the area
15 in square miles to be included, and a complete description of the boundaries of the real



1 properties intended to be embraced in the proposed district. The petitioners shall file a plat or
2 map showing the suggested boundaries of the proposed district and deposit a sum sufficient to
3 defray the expenses of publishing the notices required by section 5 of this Act and § 6-16-4 with
4 the county auditor.

5 Section 3. After the petition is filed with the county auditor, the county auditor shall
6 determine and certify that the petition has been signed by at least twenty percent of the number
7 of registered voters voting in the last gubernatorial election within the proposed district. If the
8 petition contains sufficient names, the county auditor shall designate a time and place for the
9 petition or resolution of the county commissioners to be heard by the board of county
10 commissioners.

11 Section 4. If the proposed district is situated within two or more counties, the county auditor
12 of the county containing the largest area shall confer with each auditor of the other counties
13 concerned and obtain a certificate as to the adequacy of the petitions or resolution. The county
14 auditor shall designate a time and place for hearing before a joint meeting of the boards of
15 county commissioners of each county and give notice by publication pursuant to section 5 of
16 this Act.

17 Section 5. The county auditor shall publish two notices in the legal newspapers of each
18 county affected. The last publication shall appear at least seven days before the hearing and
19 include a statement of the proposed boundaries.

20 Section 6. The board of county commissioners shall conduct the hearing and allow any
21 person residing in or owning taxable property within the proposed district an opportunity to be
22 heard respecting the formation of the district or the location of the boundaries. The board of
23 county commissioners shall determine if the proposed district provides a public benefit or
24 service to the county and determine the boundaries of the proposed district as suggested in the

1 petition or otherwise. The board of county commissioners shall make a written order of the
2 determination describing the purpose of the district and the boundaries of the district and file
3 the order in the office of the county auditor in each county in which the district is situated.

4 Section 7. After the order is filed, the board of county commissioners shall conduct an
5 election pursuant to §§ 6-16-4 to 6-16-6, inclusive.

6 Section 8. Permanent organization shall be effected by the election of a board of directors
7 consisting of five residents of the district.

8 Section 9. The board of directors shall meet as soon after the organizational meeting as
9 possible to elect a president, a vice president, and a secretary-treasurer.

10 Section 10. Each director and officer shall be elected for two years and hold office until their
11 successors have been elected and qualified. At the first election, the vice president shall be
12 elected as provided in section 9 of this Act for a one-year term, and one of the other directors
13 shall be selected by lot in the presence of a majority of the directors to serve a one-year term.
14 A district director may receive compensation for services in an amount not to exceed forty
15 dollars per day and may receive expenses, including traveling expenses, necessarily incurred in
16 the discharge of the director's duties. If a vacancy occurs on the board of directors, the remaining
17 directors shall appoint a replacement to fill the unexpired term of the vacant office.

18 Section 11. Upon compliance with the provisions of this Act and chapter 6-10 relating to
19 organization, the district under its designated name shall constitute a body politic and corporate.

20 Section 12. The board of directors may:

- 21 (1) Determine a program for the district to follow;
- 22 (2) Manage and conduct the business affairs of the district;
- 23 (3) Make and execute contracts in the name of and for the district;
- 24 (4) Purchase or lease equipment, supplies, and other real or personal property as

1 necessary and proper to carry out the purpose of the district;

2 (5) Incur indebtedness for the district within the limits prescribed by this Act, and to
3 authorize the issuance of evidence of indebtedness permitted under this subdivision,
4 and to pledge any real or personal property owned or acquired by the district as
5 security; and

6 (6) Organize, establish, equip, maintain, and supervise the district.

7 Section 13. Any district may elect to enter into a contract with any federal, state, or local
8 government agency to consolidate or cooperate for mutual services upon suitable terms.

9 Section 14. The board of directors shall make an annual estimate of the expense for carrying
10 out the program for the district and certify the estimate to the county. The president and
11 secretary-treasurer shall certify the estimate to the county auditor by June thirtieth of each year.
12 The tax levy may not exceed one dollar per thousand dollars of taxable valuation of the property
13 within the district. The tax shall be collected as other taxes are collected in the county.

14 Section 15. The tax shall be deposited with the secretary-treasurer of the district, who shall
15 have a surety bond in the amount of at least five thousand dollars.

16 Section 16. A district may become indebted for an amount that is payable with ten or less
17 annual maximum tax levies as authorized by section 14 of this Act. The district may borrow
18 money at a rate not to exceed twelve percent and may issue appropriate evidence of
19 indebtedness thereof.

20 Section 17. Any funds collected for the district through the levy of taxes; any donations,
21 contributions, bequests, or annuities; and any borrowed money received by or for the district
22 shall be deposited in a state or national bank to the credit of the district fund and may be drawn
23 out only by warrant.

24 Section 18. A claim voucher shall be authorized by the board of directors and shall bear the

signature of the secretary-treasurer and the countersignature of the president of the district.

Section 19. If the Department of Legislative Audit examines other county records, it shall examine the financial report of the secretary-treasurer of the district. The secretary-treasurer of the district shall, on or before January thirty-first of each year, file a financial report of the previous calendar year with the auditor of the county containing the largest area of the district.

Section 20. The boundaries of any district organized under the provisions of this chapter may be changed in the manner prescribed by sections 3 to 7, inclusive, of this Act. However, the change of boundaries of any district does not impair or affect its organization or its right in or to property; nor does it impair, affect, or discharge any contract, obligation, lien, or change for or upon which it might be liable had the change of boundaries not been made.

Section 21. A regular meeting of the registered voters who are residing within the boundaries of a district shall be held in the first quarter of each calendar year and special meetings may be called by the board of directors at any time. The secretary-treasurer shall give notice of any special meeting by publishing one notice in a legal newspaper of general circulation in each county in which the district is situated. The meeting may be held not less than seven days nor more than fourteen days after the date of publication of the notice.

Section 22. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district.

Section 23. The capital outlay fund of a district is a fund provided by law to meet expenditures of one thousand dollars or more which result in the acquisition of or additions to real property, facilities, or equipment. Capital outlay fund expenditures may be for land, existing facilities, improvement of grounds, construction of facilities, additions to facilities, remodeling of facilities, or for the purchase of equipment.

Section 24. In addition to any tax levy authorized pursuant to section 14 of this Act, the

1 board of directors of a district may authorize an annual levy of a tax not to exceed fifty cents per
2 thousand dollars of taxable valuation on the taxable valuation of the district for the capital
3 outlay fund.

4 Section 25. Any district using the capital outlay fund to pay for the construction or addition
5 to any facility which requires the advertisement of bids pursuant to chapter 5-18 shall have a
6 public hearing at least ten days before the advertisement of any contract specifications. The
7 public hearing shall be advertised in the legal newspapers of each county where the district has
8 territory. Following the public hearing, and approval of the board of directors, the district may
9 use the capital outlay fund as provided in section 24 of this Act. However, if a district changes
10 the originally advertised use of the fund, it shall hold another public hearing.